

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

EUGENE SAWYER,	)	Case No. 1:05 CV 1469
	)	
Petitioner,	)	Judge John R. Adams
	)	
vs.	)	REPORT AND RECOMMENDATION
	)	OF MAGISTRATE JUDGE
CARL S. ANDERSON,	)	
	)	
Respondent.	)	Magistrate Judge James S. Gallas
	)	

Previously the undersigned issued instructions in this federal habeas corpus matter for *pro se* petitioner Eugene Sawyer to explain in writing why he failed to appeal the state trial court's March 2003 denial of his state petition for post-conviction relief to the Ohio Supreme Court (Docket No. 5). The undersigned contemplated summary dismissal because the grounds raised: prosecutorial misconduct due to pressuring Sawyer's 14-year old daughter to testify; withholding evidence of negative urine tests; and denial of due process because Sawyer's daughter recanted her testimony, appear to have been procedurally defaulted, and not "fairly presented" to the Ohio Supreme Court.

Sawyer did respond, arguing that he had exhausted his state remedies (Docket Nos. 7 and 8). Subsequently, he moved on April 11, 2006 to dismiss his petition without prejudice (Docket No. 9).

RECOMMENDATION

It is recommended that Eugene Sawyer's motion to dismiss his case without prejudice pursuant to F.R. Civ. P. 41(a)(1) be granted and the matter concluded.

s/James S. Gallas

United States Magistrate Judge

Dated: June 21, 2006